

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MONTAGNO TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>MINERAL COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 65867</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 16, 2015, Diane M. DeVries and MaryKay Kelley presiding. Lawrence R. and Connie F. Montagno, Trustees, appeared pro se on behalf of Petitioner. Respondent was represented by Randy Nicholson, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**212 Camp Robber Drive
Lot 6, Block 6, Unit Two, Lost Valley of the San Juans, Pagosa Springs, Colorado
Schedule No. 538934403002-R**

The subject property is a 0.78 acre vacant residential site. It lies within Lost Valley of the San Juans Subdivision, located approximately 10 miles south of Pagosa Springs and comprised of 72 lots, roughly half of which are improved. Dirt roads are not maintained in winter months. Homeowner Association fees are \$200 per year for road and fence maintenance. The subject lot has a water tap, while a community well services other properties. There is no sewer system; all owners are paying \$30 per month for a ten-year period for a drain cluster field.

Respondent assigned a value of \$42,000 for tax year 2015. Petitioner is requesting a value of \$20,000.

Mr. Montagno described surrounding terrain as bowl-shaped. and the subject site has views of the San Juan peaks. Secluded and interior, it is not treed and is bisected by a drainage culvert.

Mr. Montagno presented five MLS-reported comparable sales within the subdivision. They range in size from 1.0 to 1.55 acre and in sale price from \$13,000 to \$60,000. He placed greatest weight on Sale Three (\$20,000 sale price) because of its adjacent location to the subject site.

Respondent's witness, Ms. Elizabeth Lamb, Mineral County Assessor, testified that for years the Assessor has been valuing interior lots within the subject subdivision at \$42,000 and lots adjacent to National Forest Service land at \$61,500. She reported, additionally, that the Assessor's Office requires three to five qualified sales within the subject's area indicating a decrease or increase in sale prices, for a change in these values (*e.g.* Assessor's valuations at \$42,000 and \$61,500).

Ms. Lamb presented three comparable sales within the subdivision. Sales One (\$60,000) and Three (\$72,500) were adjacent to Forest Service land. Sale Two (\$30,000) was an interior lot like the subject. With three to five sales required by the County to change value, insufficient data was available to change the established value of \$42,000 for the subject lot.

Ms. Lamb reviewed Petitioner's sales. Sale One (\$13,000) was purchased by the owner of its adjacent lot (private sale) and was, therefore, disqualified. Sale Two (\$45,000) occurred post-base period and was, thus, disqualified. Sale Three (\$20,000) was a partial-interest sale without a documentary fee and was disqualified. Sale Four (\$26,500) involved multiple lots and, thus, was disqualified. Sale Five (\$60,000) was a qualified sale of a Forest Service lot and was used by Respondent.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

The Board is convinced that all but one of Petitioner's comparable sales are unqualified transactions; Sale Five was used by Respondent. Respondent's Sale Two (\$30,000) is the best indicator of value for the subject lot because of its interior location. The Board is persuaded that one sale does not make a market. The Board agrees with Respondent's witness that insufficient data exists to lower the assigned value.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of

the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

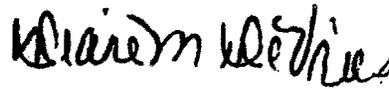
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

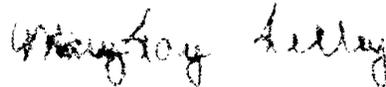
Section 39-8-108(2), C.R.S.

DATED and MAILED this 7th day of December, 2015.

BOARD OF ASSESSMENT APPEALS

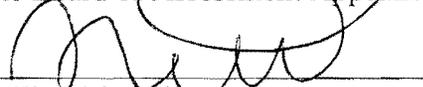


Diane M. DeVries



MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.


Milla Lishchuk